

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State bar number, and address): MICHAEL C. SERVERIAN, #133203 RANKIN, LANDSNESS, LAHDE, SERVERIAN & STOCK 96 North Third St., Suite 500 San Jose, CA 95112		FOR COURT USE ONLY ENDED 2007 SEP -4 P 1:44 KIM TONG, CLERK OF SUPERIOR COURT COUNTY OF SANTA CLARA, CALIFORNIA BY _____ A. FLORESCA	
TELEPHONE NO.: (408) 293-0463 FAX NO. (Optional): (408) 293-9514 E-MAIL ADDRESS (Optional): ATTORNEY FOR (Name): Defendant City of Santa Clara			
SUPERIOR COURT OF CALIFORNIA, COUNTY OF SANTA CLARA STREET ADDRESS: 191 N. First Street MAILING ADDRESS: 191 N. First Street CITY AND ZIP CODE: San Jose, CA 95113 BRANCH NAME:			
PLAINTIFF/PETITIONER: LEE JACKSON and KENNETH JACKSON			
DEFENDANT/RESPONDENT: SILICON VALLEY ANIMAL CONTROL AUTHORITY, CITY OF SANTA CLARA, et al.			
CASE MANAGEMENT STATEMENT (Check one): <input checked="" type="checkbox"/> UNLIMITED CASE <input type="checkbox"/> LIMITED CASE (Amount demanded exceeds \$25,000) (Amount demanded is \$25,000 or less)		CASE NUMBER: 107CV079050	
A CASE MANAGEMENT CONFERENCE is scheduled as follows: Date: September 18, 2007 Time: 10:00 a.m. Dept.: 22 Div.: Room: Address of court (if different from the address above):			

INSTRUCTIONS: All applicable boxes must be checked, and the specified information must be provided.

1. **Party or parties (answer one):**
- a. ☒ This statement is submitted by party (name): CITY OF SANTA CLARA
- b. ☐ This statement is submitted jointly by parties (names):
2. **Complaint and cross-complaint (to be answered by plaintiffs and cross-complainants only)**
- a. The complaint was filed on (date):
- b. ☐ The cross-complaint, if any, was filed on (date):
3. **Service (to be answered by plaintiffs and cross-complainants only)**
- a. ☐ All parties named in the complaint and cross-complaint have been served, or have appeared, or have been dismissed.
- b. ☐ The following parties named in the complaint or cross-complaint
- (1) ☐ have not been served (specify names and explain why not):
- (2) ☐ have been served but have not appeared and have not been dismissed (specify names):
- (3) ☐ have had a default entered against them (specify names):
- c. ☐ The following additional parties may be added (specify names, nature of involvement in case, and the date by which they may be served):
4. **Description of case**
- a. Type of case in ☒ complaint ☐ cross-complaint (describe, including causes of action):
- Personal injury action with claims of negligence, assault and battery, civil rights violations, conversion, etc.

PLAINTIFF/PETITIONER: LEE JACKSON and KENNETH JACKSON	CASE NUMBER: 107CV079050
DEFENDANT/RESPONDENT: SILICON VALLEY ANIMAL CONTROL AUTHORITY, CITY OF SANTA CLARA, et al.	

4. b. Provide a brief statement of the case, including any damages. (If personal injury damages are sought, specify the injury and damages claimed, including medical expenses to date [indicate source and amount], estimated future medical expenses, lost earnings to date, and estimated future lost earnings. If equitable relief is sought, describe the nature of the relief.)
This lawsuit arises out of an incident which occurred on December 19, 2005, in which plaintiffs allege defendants unlawfully entered their motorhome and seized plaintiffs' pets.

☐ (If more space is needed, check this box and attach a page designated as Attachment 4b.)

5. Jury or nonjury trial

The party or parties request ☒ a jury trial ☐ a nonjury trial (if more than one party, provide the name of each party requesting a jury trial):

6. Trial date

- a. ☐ The trial has been set for (date):
b. ☒ No trial date has been set. This case will be ready for trial within 12 months of the date of the filing of the complaint (if not, explain):
c. Dates on which parties or attorneys will not be available for trial (specify dates and explain reasons for unavailability):
Unavailable: 9/24/07-9/28/07; 11/19/07-11/23/07; 12/3/07-12/14/07 and 1/14/08-1/25/08 due to trials

7. Estimated length of trial

The party or parties estimate that the trial will take (check one):

- a. ☐ days (specify number):
b. ☐ hours (short causes) (specify):

8. Trial representation (to be answered for each party)

The party or parties will be represented at trial ☒ by the attorney or party listed in the caption ☐ by the following:

- a. Attorney:
b. Firm:
c. Address: -
d. Telephone number: -
e. Fax number:
f. E-mail address:
g. Party represented:

☐ Additional representation is described in Attachment 8.

9. Preference

☐ This case is entitled to preference (specify code section):

10. Alternative Dispute Resolution (ADR)

- a. Counsel ☐ has ☐ has not provided the ADR information package identified in rule 3.221 to the client and has reviewed ADR options with the client.
b. ☐ All parties have agreed to a form of ADR. ADR will be completed by (date):
c. ☐ The case has gone to an ADR process (indicate status):

CM-110

PLAINTIFF/PETITIONER: LEE JACKSON and KENNETH JACKSON	CASE NUMBER:
DEFENDANT/RESPONDENT: SILICON VALLEY ANIMAL CONTROL AUTHORITY, CITY OF SANTA CLARA, et al.	107CV079050

10. d. The party or parties are willing to participate in (check all that apply):

- (1) ☐ Mediation
- (2) ☐ Nonbinding judicial arbitration under Code of Civil Procedure section 1141.12 (discovery to close 15 days before arbitration under Cal. Rules of Court, rule 3.822)
- (3) ☒ Nonbinding judicial arbitration under Code of Civil Procedure section 1141.12 (discovery to remain open until 30 days before trial; order required under Cal. Rules of Court, rule 3.822)
- (4) ☐ Binding judicial arbitration
- (5) ☐ Binding private arbitration
- (6) ☐ Neutral case evaluation
- (7) ☐ Other (specify):

- e. ☐ This matter is subject to mandatory judicial arbitration because the amount in controversy does not exceed the statutory limit.
- f. ☐ Plaintiff elects to refer this case to judicial arbitration and agrees to limit recovery to the amount specified in Code of Civil Procedure section 1141.11.
- g. ☐ This case is exempt from judicial arbitration under rule 3.811 of the California Rules of Court (specify exemption):

11. Settlement conference

- ☐ The party or parties are willing to participate in an early settlement conference (specify when):

12. Insurance

- a. ☐ Insurance carrier, if any, for party filing this statement (name):
- b. Reservation of rights: ☐ Yes ☐ No
- c. ☐ Coverage issues will significantly affect resolution of this case (explain):

13. Jurisdiction

Indicate any matters that may affect the court's jurisdiction or processing of this case, and describe the status.

- ☐ Bankruptcy ☐ Other (specify):

Status:

14. Related cases, consolidation, and coordination

- a. ☐ There are companion, underlying, or related cases.
- (1) Name of case:
- (2) Name of court:
- (3) Case number:
- (4) Status:

☐ Additional cases are described in Attachment 14a.

- b. ☐ A motion to ☐ consolidate ☐ coordinate will be filed by (name party):

15. Bifurcation

- ☐ The party or parties intend to file a motion for an order bifurcating, severing, or coordinating the following issues or causes of action (specify moving party, type of motion, and reasons):

16. Other motions

- ☒ The party or parties expect to file the following motions before trial (specify moving party, type of motion, and issues):
Standard motions in limine.

PLAINTIFF/PETITIONER: LEE JACKSON and KENNETH JACKSON	CASE NUMBER: <u>107CV079050</u>
DEFENDANT/RESPONDENT: SILICON VALLEY ANIMAL CONTROL AUTHORITY, CITY OF SANTA CLARA, et al.	

17. Discovery

- a. ☐ The party or parties have completed all discovery.
- b. ☒ The following discovery will be completed by the date specified (*describe all anticipated discovery*):

<u>Party</u>	<u>Description</u>	<u>Date</u>
Defendant	Written discovery to plaintiff	11/07
Defendant	Subpoena pertinent records	12/07
Defendant	Notice plaintiffs' depositions	1/08

- c. ☐ The following discovery issues are anticipated (*specify*):

18. Economic Litigation

- a. ☐ This is a limited civil case (i.e., the amount demanded is \$25,000 or less) and the economic litigation procedures in Code of Civil Procedure sections 90 through 98 will apply to this case.
- b. ☐ This is a limited civil case and a motion to withdraw the case from the economic litigation procedures or for additional discovery will be filed (*if checked, explain specifically why economic litigation procedures relating to discovery or trial should not apply to this case*):

19. Other issues

- ☐ The party or parties request that the following additional matters be considered or determined at the case management conference (*specify*):

20. Meet and confer

- a. ☒ The party or parties have met and conferred with all parties on all subjects required by rule 3.724 of the California Rules of Court (*if not, explain*):
- b. After meeting and conferring as required by rule 3.724 of the California Rules of Court, the parties agree on the following (*specify*):

21. Case management orders

Previous case management orders in this case are (*check one*): ☐ none ☐ attached as Attachment 21.

22. Total number of pages attached (*if any*): _____

I am completely familiar with this case and will be fully prepared to discuss the status of discovery and ADR, as well as other issues raised by this statement, and will possess the authority to enter into stipulations on these issues at the time of the case management conference, including the written authority of the party where required.

Date: August 31, 2007

MICHAEL C. SERVERIAN

(TYPE OR PRINT NAME)



(SIGNATURE OF PARTY OR ATTORNEY)



(TYPE OR PRINT NAME)

(SIGNATURE OF PARTY OR ATTORNEY)

☐ Additional signatures are attached

Case Name: Jackson v. Silicon Valley Animal Control, et al.

Case No: 1-07-CV-079050

PROOF OF SERVICE

I, the undersigned, hereby declare that I am over the age of eighteen years and not a party to the within action. My business address is 96 No. Third Street, Suite 500, San Jose, California 95112. I am employed in the County of Santa Clara where this service occurs. On the date indicated below I served a true copy of the following documents:

CASE MANAGEMENT STATEMENT


- ☒ (BY MAIL) By placing a true copy of the aforementioned documents enclosed in a sealed envelope, with postage thereon fully prepaid to be placed in the U.S. mail at San Jose, California, addressed as set forth below. I am readily familiar with my employer's practice for collection and processing correspondence for mailing with the United States Postal Service. Documents so collected and processed are place for collection and deposit with the U.S. Postal Service on the same day in the ordinary course of business, at 96 North Third Street, Suite 500, San Jose, California 95112.
- ☐ (BY FACSIMILE) I personally sent to the addressee's telecopier number a true copy of the above-described document(s).
- ☐ (BY PERSONAL SERVICE) I personally delivered a true copy of the above-described document(s) to the person and at the address as set forth below.
- ☐ (BY OVERNIGHT DELIVERY) A true copy of the above-described document(s) was placed in a sealed envelope, with delivery fees provided for, and delivered in the ordinary course of business to an overnight delivery carrier, addressed to the person(s) on whom it is to be served.

Stuart M. Wilson, Esq.
1671 The Alameda, Suite 300
San Jose, CA 95126

Attorney for Plaintiff
408-293-8400 P
408-293-0714 F

I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

Executed on August 31, 2007, at San Jose, California.


Traci Robles

PLD-PI-003

ATTORNEY OR PARTY WITHOUT ATTORNEY (NAME AND ADDRESS): MICHAEL C. SERVERIAN, #133203 RANKINM, LANDSNESS, LAHDE, SERVERIAN & STOCK 96 North Third St., Suite 500 San Jose, CA 95112		TELEPHONE NO.:	FOR COURT USE ONLY AUG 23 A 11:25 CLERK OF SUPERIOR COURT COUNTY OF SANTA CLARA M. Rosales
ATTORNEY FOR (NAME): Defendant City of Santa Clara Insert name of court, judicial district or branch court, if any, and post office and street address: SUPERIOR COURT OF CALIFORNIA, COUNTY OF SANTA CLARA 191 N. First St. San Jose, CA 95113			
PLAINTIFF: LEE JACKSON and KENNETH JACKSON			
DEFENDANT: SILICON VALLEY ANIMAL CONTROL AUTHORITY, CITY OF SANTA CLARA, et al.			
ANSWER—Personal Injury, Property Damage, Wrongful Death <input checked="" type="checkbox"/> COMPLAINT OF (name): Lee Jackson and Kenneth Jackson <input type="checkbox"/> CROSS-COMPLAINT OF (name):		CASE NUMBER: 107CV 079050	

1. This pleading, including attachments and exhibits, consists of the following number of pages: 4

DEFENDANT OR CROSS-DEFENDANT (name): CITY OF SANTA CLARA

2. ☒ Generally denies each allegation of the unverified complaint or cross-complaint.

3. a. ☐ DENIES each allegation of the following numbered paragraphs:

b. ☐ ADMITS each allegation of the following numbered paragraphs:

c. ☐ DENIES, ON INFORMATION AND BELIEF, each allegation of the following numbered paragraphs:

d. ☐ DENIES, BECAUSE OF LACK OF SUFFICIENT INFORMATION OR BELIEF TO ANSWER, each allegation of the following numbered paragraphs:

e. ☐ ADMITS the following allegations and generally denies all other allegations:

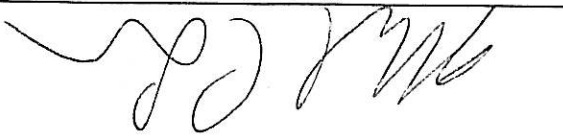
ANSWER—Personal Injury, Property Damage, Wrongful Death

Page 2 of 2

(Type or print name)

MICHAEL C. SERVERIAN, #133203

(Signature of party or attorney)



Dated: August 22, 2007

7. DEFENDANT OR CROSS-DEFENDANT PRAYS
For costs of suit and that plaintiff or cross-complainant take nothing.
☐ Other (specify):

6. ☒ Other (specify): See attached Affirmative Defenses.

5. ☐ The expiration of the Statute of Limitations as follows:

4. ☒ The comparative fault of plaintiff or cross-complainant (name): Lee Jackson and Kenneth Jackson as follows:
AFFIRMATIVELY ALLEGES AS A DEFENSE
See attached Affirmative Defenses.

g. ☐ Other (specify):

f. ☐ DENIES the following allegations and admits all other allegations:

ANSWER—Personal Injury, Property Damage, Wrongful Death

SHORT TITLE: JACKSON V. SILICON VALLEY ANIMAL CONTROL AUTHORITY	CASE NUMBER: 107CV 079050
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Jackson v. Silicon Valley Animal Control, et al.

Case No. 1-07-CV-079050

AFFIRMATIVE DEFENSES

AS AND FOR A FIRST AFFIRMATIVE DEFENSE, the Complaint fails to state a claim upon which relief can be granted.

AS AND FOR A SECOND AFFIRMATIVE DEFENSE, plaintiffs were careless and negligent in and/or about the matters referred to in said Complaint, and further that the plaintiffs failed to exercise ordinary or any care for plaintiffs' own safety and such carelessness and negligence on the part of plaintiffs proximately caused and contributed to the damage, detriment or injury sustained by plaintiffs, if any, and that plaintiffs' recovery should therefore either be barred or reduced to the extent of plaintiffs' negligence.

AS AND FOR A THIRD AFFIRMATIVE DEFENSE, any harm suffered was a result of a negligent or otherwise wrongful conduct of persons other than defendant and that the conduct of the person other than defendant was the sole and proximate cause of the injuries and damages alleged by plaintiffs.

AS AND FOR A FOURTH AFFIRMATIVE DEFENSE, all actions taken by defendant, including actions of DOE defendants, were undertaken in good faith and with a reasonable belief that the actions were valid, necessary, constitutionally proper and objectively reasonable for a police officer in the same circumstances, entitling defendant to qualified immunity from plaintiff's claimed injuries and damages.

AS AND FOR A FIFTH AFFIRMATIVE DEFENSE, plaintiffs have failed to mitigate their damages, if any.

AS AND FOR A SIXTH AFFIRMATIVE DEFENSE, the reports of which plaintiffs complain were made honestly, in good faith and not maliciously in that defendant reported what their observations were and what occurred.

AS AND FOR A SEVENTH AFFIRMATIVE DEFENSE, defendant alleges that plaintiffs' Complaint is barred by the Doctrine of Unclean Hands.

AS AND FOR AN EIGHTH AFFIRMATIVE DEFENSE, defendant is entitled to immunity under the Eleventh Amendment.

1 AS AND FOR A NINTH AFFIRMATIVE DEFENSE, defendant contends that it is
2 immune from liability pursuant to the Federal Civil Rights Act because it was acting in good
3 faith and entertained a reasonable belief that its actions were necessary.

4 AS AND FOR A TENTH AFFIRMATIVE DEFENSE, defendant contends that it is
5 immune pursuant to the principals of qualified immunity.

6 AS AND FOR AN ELEVENTH AFFIRMATIVE DEFENSE, defendant alleges that it
7 has not deprived any person, including plaintiff, of any right, privilege, or immunity
8 guaranteed by the Constitution or laws of the United States or the State of California, and,
9 therefore, defendant is not liable.

10 AS AND FOR A TWELFTH AFFIRMATIVE DEFENSE, defendant alleges that the
11 acts or omissions set forth in the complaint, even if proven true, constitute mere negligence
12 and were not intentional, willful or grossly negligent, and as a consequence, fails to state a
13 claim for relief.

14 AS AND FOR A THIRTEENTH AFFIRMATIVE DEFENSE, defendant's employees
15 were objectively reasonable in light of the facts and circumstances confronting them, and
16 their conduct did not violate clearly established statutory or Constitutional rights of which a
17 reasonable person would have known.

18 AS AND FOR A FOURTEENTH AFFIRMATIVE DEFENSE, plaintiffs' special
19 damages, if any, should be reduced to the actual amount paid to plaintiffs' health care
20 providers for services reasonably related to plaintiffs' injuries, or are anticipated to be paid
21 in the future.

22 AS AND FOR A FIFTEENTH AFFIRMATIVE DEFENSE, plaintiffs' claims for
23 punitive damages are barred under state and federal law.

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Case Name: Jackson v. Silicon Valley Animal Control

Case No: 1-07-CV-079050

PROOF OF SERVICE

I, the undersigned, hereby declare that I am over the age of eighteen years and not a party to the within action. My business address is 96 No. Third Street, Suite 500, San Jose, California 95112. I am employed in the County of Santa Clara where this service occurs. On the date indicated below I served a true copy of the following documents:

ANSWER TO COMPLAINT

M. Rosales

☒ (BY MAIL) By placing a true copy of the aforementioned documents enclosed in a sealed envelope, with postage thereon fully prepaid to be placed in the U.S. mail at San Jose, California, addressed as set forth below. I am readily familiar with my employer's practice for collection and processing correspondence for mailing with the United States Postal Service. Documents so collected and processed are place for collection and deposit with the U.S. Postal Service on the same day in the ordinary course of business, at 96 North Third Street, Suite 500, San Jose, California 95112.

☐ (BY FACSIMILE) I personally sent to the addressee's telecopier number a true copy of the above-described document(s).

☐ (BY PERSONAL SERVICE) I personally delivered a true copy of the above-described document(s) to the person and at the address as set forth below.

☐ (BY OVERNIGHT DELIVERY) A true copy of the above-described document(s) was placed in a sealed envelope, with delivery fees provided for, and delivered in the ordinary course of business to an overnight delivery carrier, addressed to the person(s) on whom it is to be served.

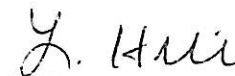
Stuart M. Wilson, Esq.
1671 The Alameda, Suite 300
San Jose, CA 95126

Attorney for Plaintiff

408-293-8400 P
408-293-0714 F

I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

Executed on August 22, 2007 at San Jose, California.


Lori Hill